

## **Special Master's First Annual Report on the Status of Progress in Implementing the Unitary Status Plan for the Tucson Unitary School District**

### **Introduction**

This report provides an overview of the progress being made in implementing the Unitary Status Plan (USP) of Tucson Unitary School District. The USP seeks to create conditions in TUSD that will bring about an end to 40 years of litigation in the desegregation suit brought against TUSD by the plaintiffs Roy and Josie Fisher, et al. and Maria Mendoza, et al. in which the United States Department of Justice has joined as plaintiff-intervenor. For a brief procedural history of the case, see the introduction to the USP (the USP is available for viewing at [www.tusd1.org/deseg](http://www.tusd1.org/deseg)). This report and its exhibits are not the only sources of information on progress being made. The District's annual report is available at [www.tusd1.org/deseg](http://www.tusd1.org/deseg).

The USP is a consent decree agreed to by TUSD and the plaintiffs that was approved by U.S. District Court for the District of Arizona in February, 2013. The USP specifies a number of actions that TUSD must effectively implement if it is to be awarded unitary status and released from direct oversight by the Court following the 2016-17 school year. This USP is a comprehensive desegregation plans that embodies not only legal principles related to remedying the vestiges of past segregation and discrimination but also research on the characteristics of school districts committed to continuous school improvement that enhances educational opportunities and outcomes for all students. For a brief overview of the design principles undergirding the USP, *see* Exhibit A, attached.

### **A. General Statement of Progress and Problems of Implementation**

Given the scope and complexity of the USP, characterized by the TUSD Superintendent as reflecting a synthesis of what is known about effective schools, a great deal has been accomplished. Because the provisions of the USP are highly correlated with the goals of the TUSD Governing Board and the priorities of the Superintendent, TUSD is engaged in various policies and practices about which it could justifiably claim national leadership including its commitment to District-

wide implementation of culturally responsive pedagogy and the development and employment of an evidence-based accountability system to inform effective practice and facilitate continuous improvement.

The specific reports of progress on specific provisions of the USP as well as some difficulties in implementing the USP are discussed below. Some general problems that represent challenges to the successful implementation of the USP are:

1. The budgeting process is complicated by the continuing debate among the parties about the appropriate use of desegregation funds to support activities not specifically identified in the USP or prescribed by the Court.
2. The development of the technology, professional capabilities and culture needed to support evidence-based accountability and facilitate continuous improvement from the classroom to the District level is problematic but essential to the long-term success of the USP. The technology is the easy part.
3. In the development of the USP, the needs of the plaintiffs and the special master for information to inform their comments on and evaluation of District plans for implementing the USP were underestimated. The result is that the District often feels overburdened and, too often, essential information is provided to the plaintiffs and the Special Master too late to allow them to influence timely deliberations that would expedite action and facilitate collaboration.
4. There is a need to improve the collaborative working relationships between the District and the plaintiffs. The USP provides that the District “shall solicit the input of the plaintiffs and the Special Master” in the development of plans and then submit the plans for review and comment. Usually, such up-front engagement has not occurred so that when proposals are submitted to the plaintiffs and the Special Master the District already has considerable investment in the defense of what is being proposed. In addition, despite substantial progress that has been made on the vast majority of issues addressed

in the USP, public characterizations of the USP, the plaintiffs, the Special Master and the Court as impediments to progress in TUSD could create a climate that would negatively affect effective implementation going forward.

## **B. The Quality and Effectiveness of TUSD's Actions to Implement the USP**

The measures of the quality and effectiveness of the District's actions to implement the USP are best measured by the outcomes for students, families and District staff. The USP has been in place for 18 months and the various actions implementing its provisions have been in place for a much shorter time. Thus, there are no empirical measures of quality and effectiveness. However, the District is evaluating virtually all of its actions that affect outcomes and what is learned from this work will permit assessments that are better grounded and more useful than those possible now.

## **C. The District's Compliance with the Provisions of the USP**

### The Process for Implementing and Monitoring Progress

In order to implement the USP and facilitate its monitoring over time the District is required to develop a set of plans. The USP provides that "...for all new or amended plans, policies and procedures or other significant changes pursuant to the Order, the District shall solicit the input of the plaintiffs and the Special Master and shall submit such items for review before they are put into practice or use".

By agreement among the parties, there are two types of proposals: Action Plans and Implementation plans. In general, Action Plans deal with those elements of the USP seen by the parties to be the most significant. Implementation plans are of two types. One describes the steps to be taken in implementing the Action Plans and the second describe the implementation steps for other elements of the USP.

There are currently 28 Action Plans and 107 Implementation Plans. As noted, Implementation Plans include descriptions of how Action Plans are to be implemented. Many Implementation Plans are actually parts of larger efforts so there are actually significantly less than 107 different projects in which the District is or will be involved in order to implement the USP.

To develop an Action Plan the District makes a proposal to and responds to questions from the plaintiffs and the Special Master. Plaintiffs may object to particular sections of each Action Plan and this typically leads to the discussion in order to resolve differences. If the differences cannot be resolved, the plaintiffs can request the Special Master to submit a Report and Recommendation to the Court proposing how the District's plan or any subsequent revisions should be amended.

Implementation Plans are monitored by the Special Master with the assistance of an Implementation Committee provided for in the USP. The Special Master makes regular reports to the District and the plaintiffs called Status Reports. If the plaintiffs believe that more information is needed they may request such information from the District or the Special Master for each element of each Implementation Plan. If the plaintiffs are unsatisfied with the progress being made, they have the option of requesting that the Special Master work with the District to improve its implementation efforts and/or to request a Report and Recommendation seeking remedy from the Court.

While Action Plans and Implementation Plans are the focus of much of the activities involved in implementing the USP, two other types of actions are also important. First, the USP provides that the plaintiffs and the Special Master be afforded the opportunity to review and comment on the District's annual budget as it relates to the implementation of the USP. Second, the plaintiffs and the Special Master must review and comment on any action taken by the District with respect to property and facilities that might affect pupil assignment and its effect on integration. Such actions include the purchase, sale or exchange of property; significant remodeling; the addition of portables; and the closing of schools. All such actions must be approved by the Court.

#### Progress in Enacting and Implementing Action and Implementation Plans

Nineteen of the 28 Action Plans have been finalized. The deadline for approval of one of the plans is set for September 1, 2014. The other plans not yet finalized are either before the Court, being discussed by the parties in hopes of resolving differences, or in the process of being submitted to the Court for resolution.

The USP set dates by which most of the Action Plans should have been submitted to the plaintiffs and the Special Master. Because the USP took longer to develop than had been anticipated, these initial deadlines proved to be unreasonable in many cases and the parties agreed to changing the due dates. Dates for final approval by the Board or the Superintendent were also approved. However, the District did not attain authoritative approval by deadlines that were initially reset for 10 of the 28 Action Plans. In April 2014, the Court allowed the District to amend the dates for approval of Action Plans that were still outstanding and to seek approval of these new dates by the plaintiffs and the Special Master, which the District successfully did. *See* Exhibit B for details on the status of Action Plans.

It is not surprising that the District and the plaintiffs disagree on specific strategies for implementing the provisions of the USP. However, of the 19 Action Plans now in place, accommodations were reached when necessary and only one went to the Court for resolution. Moreover, the vast majority of the 107 Implementation Plans – which include dates and processes for putting Action Plans in place are or are projected to be in place – are on schedule. Of those that have been delayed, the reasons in most cases relate to the fact that the relevant Action Plan has not been approved or for reasons common to the implementation of new strategies – such as problems with the software, staffing changes, unanticipated difficulty or realization that seemingly promising practices need revision. *See* Exhibit B for status of Implementation Plans.

It is important to note that the fact that an activity is not yet implemented in accordance with the USP does not necessarily mean that the District has not taken related action to address the issues involved. For example, even though the Family and Community Engagement plan has not yet been approved, the District has moved forward to establish a new Family Center and to implement other elements of the plan.

### Budget Issues

The USP requires that its provisions be adequately funded and the Court has asserted that investments must have a reasonable chance of being successful as best one can tell from documented experience in TUSD and/or research in other districts. A primary source of financial support for the USP are local funds

authorized by the state – commonly known as “desegregation funds.” However, if necessary, other funding must be used and because the provisions of the USP in many cases are requiring policies and practices that the District would be pursuing in any event, it is common for provisions of the USP to be funded from multiple sources. An example would be professional development for teachers and school administrators.

The meaning of particular Implementation Plans become clearer when budget allocations show how much will be spent and how those funds will be spent on various elements of the plan. So, it is not surprising that there are disagreements about proposed budget expenditures. However, in the development of the 2013-14 TUSD budget for implementing the USP, only five budget-related issues needed to be resolved by the Court as a result of a Report and Recommendation requested by the plaintiffs (some of these required Action Plans). These issues dealt with academic support for Mexican-American students, specification of funding for individual magnet schools, the identification of criteria for evaluating the efficacy and the funding of student support programs, the development of criteria for allocating indirect costs to desegregation funds, and the clarification of criteria for the use of desegregation funds. This last issue remains a continuing source of conflict between the plaintiffs and the District. The particular problem here involves allocations for activities that the plaintiffs and the Special Master believe that the District would be supporting in the absence of the USP that are not specifically linked to provisions in the USP or are not narrowly targeted to address educational outcomes of African American and Latino students.

#### Actions Related to the Development and Use of Property and Facilities

As noted, the USP requires that several actions involving the acquisition and use of property and facilities be reviewed by the plaintiffs and the Special Master and approved by the Court. In all of these matters, the key issue is what the effect of the actions will have on the opportunities of students to attend integrated schools. In the instance of school closings, the Court's approval, following recommendations of the Special Master, was conditioned on assurances that the needs of students who would be attending different schools as a result of closing would be adequately met.

#### **D. Recommendations for Action by the Court**

Several issues critical to the effective implementation of the USP remain unresolved. These issues are:

- Dropout prevention and graduation
- The evaluation of teachers and principals
- Recruitment and retention of professional staff
- Family and community engagement
- Advanced learning experiences
- The comprehensive magnet plan
- The appointment of the Director of Culturally Responsive Pedagogy and Instruction
- Guidelines for Student Rights and Responsibilities revised for the 2014-15 school year.
- The 2014-15 USP budget

All of these matters will be resolved by the parties in the next month or will be before the Court as the topics of Reports and Recommendation.

The continuing problem of the inability of the District to provide the plaintiffs and the Special Master with information they believe they need to exercise their roles as specified in the USP in a timely and effective way was noted above. From the District's perspective, some information requests are seen as unreasonable and require considerable staff time that the District believes could be better spent on implementing the USP and other District priorities. I recommend that the Court direct the parties to work with the Special Master to develop a stipulation addressing this problem. This stipulation should be submitted to the Court no later than November 1, 2014. If consensus cannot be reached, the Special Master should propose a process to the Court by November 15, 2014. This proposal, should it be necessary, may be objected to by the parties within 10 days of its submission to the Court.